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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,884	09/14/2006	Grzegorz Olesch	KALU-00101-NUS	1729
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MATTHIAS SCHOLL 14781 MEMORIAL DRIVE SUITE 1319 HOUSTON, TX 77079			EXAMINER SMITH, MATTHEW J	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 02/01/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTORECEIPT@GMAIL.COM  
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# Office Action Summary

**Application No.**

10/598,884

**Applicant(s)**

OLESCH, GRZEGORZ

**Examiner**

Matthew J. Smith

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-58 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 57 is/are allowed.  
6) ☒ Claim(s) 29-49, 51-55 and 58 is/are rejected.  
7) ☒ Claim(s) 50 and 56 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 30, 35, 39-41, 43-47, 51, 52, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow (4327529) in view of Bolt (3103709).

Bigelow discloses a method of constructing of a transportable modular building, comprising: making a foundation 32 at a building site; producing, in a factory, a service module 58 of a frame construction which enables a container transportation and is provided with appropriate building installations; producing, in a factory, out of the building site, at least two horizontal segments 23; and a vertical segment 57 of a frame construction; transporting the service module, the horizontal, and vertical segments to the building site by means of a vehicle apt to container transportation; attaching the service modules on the foundation 32 of the building; attaching an appropriate number of the horizontal segments 23 on the foundation and connecting them with the service module 58 at the service module bottom plate level; attaching an appropriate number of the vertical segments 57 to the horizontal segments; attaching an appropriate number of the horizontal segments to the vertical segments and to the service module at the level of the service module top plate; the horizontal segments attached to the service module perpendicularly to the longitudinal axis; window openings; and rafter framing;

This reference does not disclose module height substantially corresponds to half of its length, horizontal segments of a frame construction having a width substantially corresponding to the height of the service module 58 and a length substantially corresponding to the length of the service module; vertical segment of a frame construction having the height substantially corresponding to the height of the service module and the length substantially corresponding to the length of the service module; during transportation the horizontal and/or vertical segments of the building are stacked and temporarily connected together to form a block having length and width corresponding to length and width of a standardized container, or vertical assembly posts of a square cross-section and the width substantially corresponding to the thickness of the vertical segment placed between neighboring vertical segments, .

Bolt presents a module height substantially corresponding to half of the module length (col. 2, line 34-35); horizontal segments 15 of a frame construction having a width substantially corresponding to the module height and a length substantially corresponding to the module length; vertical segment of a frame construction having the height substantially corresponding to the module height and the length substantially corresponding to the module length; during transportation, the horizontal and vertical segments of the building are stacked and temporarily connected together, to form a block having length and width corresponding to length and width of a standardized container (col. 1, lines 17-23); vertical assembly posts 17, 18 of a square cross-section and the width substantially corresponding to the thickness of the vertical segment placed between neighboring vertical segments.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to fabricate the Bigelow segments in the dimensions presented by Bolt in order to fit the segments into a transportable container.

Claims 31, 32, 36-38, 42, 48, 49, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow in view of Bolt as applied in claims 29 and 43, respectively, above and further in view of Gregory (4501098).

The combination discloses the invention substantially as claimed but not connecting at least two service modules parallel one on another, a service module being the container's length and width, or aligning service modules end to end.

Gregory shows a modular building with a service module the same size as a container; different floor plans; and suggests a second story, Fig. 8.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to connect two service modules parallel one on top of another since Gregory suggests a second story and to add a service module would have been obvious.

It would have been further obvious to align service modules end to end since Gregory suggest several floor plans and service modules placed end to end would have been consistent with Gregory.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow in view of Bolt as applied to claim 44 above, and further in view of Smith (3462891).

The combination discloses the invention substantially as claimed but not the segments being the same dimensions.

Smith describes a modular building having segments 34, 35 being the same dimensions.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to fabricate the Bigelow segments being the same dimensions, as described by Smith, since it is well known.

#### ***Allowable Subject Matter***

Claim 57 is allowed.

Claim 50 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments, see page 9, filed 27 November 2009, with respect to the rejections of claims 29 and 43 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new rejection is made in view of Bolt. The examiner contends Bolt presents the claimed dimensions and the motivation to fit the segments in a transportable container. Also, the examiner apologizes for not advancing prosecution.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bolt (3284966) depicts factory made modular segments packed on lorries.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./  
Examiner, Art Unit 3635  
26 January 2010